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juries sustained in a collision, the evidence held to sustain a verdict for plaintiff.

[Ed. Note.—For other cases, see Street Railroads, Cent. Dig. §§ 239-250; Dec. Dig. § 114.*]

4. Negligence (§ 136*)—Actions—Question for Jury.—Where reasonable men might fairly disagree upon the existence of negligence, the question is for the jury; it being for the court only where the inferences from the evidence are certain and incontrovertible, so that fair minded men would not differ in their conclusion.

[Ed. Note.—For other cases, see Negligence, Cent. Dig. §§ 279-306; Dec. Dig. § 136.*]

JACKSON *v.* VALLEY TIE & LUMBER CO.

Nov. 19, 1908.

[62 S. E. 964.]

1. Equity (§ 415*)—Decree—Form and Sufficiency.—It is no objection to a decree that the reasons for the decisions are recited therein.

[Ed. Note.—For other cases, see Equity, Cent. Dig. § 936; Dec. Dig. § 415.*]

2. Bankruptcy (§ 199*)—Distribution of Estate—Attachment—Lien.—Under Bankruptcy Act July 1, 1898, c. 541, § 67f, 30 Stat. 565 (U. S. Comp. St. 1901, p. 3450), providing that all attachments or other liens against a person who is insolvent at any time within four months prior to the filing of a petition in bankruptcy against him are void in case he is adjudged a bankrupt, the debtor must not only be insolvent, but the insolvency must have existed at the time the lien attached.

[Ed. Note.—For other cases, see Bankruptcy, Dec. Dig. § 199*]

3. Bankruptcy (§ 216*)—Distribution of Estate—Actions—Evidence.—Under Bankruptcy Act July 1, 1898, c. 541, § 67f, 30 Stat. 565 (U. S. Comp. St. 1901, p. 3450), making void liens created against a bankrupt within four months prior to the filing of the petition, the burden of proving insolvency at the time the lien was created is on the one asserting it.

[Ed. Note.—For other cases, see Bankruptcy, Dec. Dig. § 216.*]

4. Bankruptcy (§ 200*)—Distribution of Estate—Attachments and Other Liens—Incipency.—Under Bankruptcy Act July 1, 1898, c. 541, § 67f, 30 Stat. 565 (U. S. Comp. St. 1901, p. 3450), providing that attachments or other liens against a person who is insolvent at any time within four months prior to the filing of the petition in bank-

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.

ruptcy are void, the lien of an attachment is created when the levy is made, and does not depend on the judgment.

[Ed. Note.—For other cases, see Bankruptcy, Cent. Dig. §§ 297-300; Dec. Dig. § 200.*]

5. Bankruptcy (§ 216*)—Distribution of Estate—Liens—Dissolution—Pleading.—After an attachment was levied the debtor was adjudged a bankrupt, and the trustee in bankruptcy filed a petition in the attachment proceedings and moved to abate the attachment, stating verbally that his grounds were that the attachment was void under Bankruptcy Act July 1, 1898, c. 541, § 67f, 30 Stat. 565 (U. S. Comp. St. 1901, p. 3450), relating to liens created within four months before the petition in bankruptcy, and was informed that the motion would be resisted because the trustee had not shown that the bankrupt was insolvent at the time the lien was created. The trustee announced that he was willing that the court should take the case for decision on the record. Held that, after decision against him, the trustee was not entitled to file an amended and supplemental petition, setting forth the same grounds contained in the motion to abate in order to secure an opportunity to produce the evidence he might have produced under the former petition.

[Ed. Note.—For other cases, see Bankruptcy, Dec. Dig. § 216.*]

HOOVER v. BAUGH et al.

Nov. 19, 1908.

[62 S. E. 968.]

1. Specific Performance (§ 97*)—Persons Entitled to Specific Performance—Subvendee.—A subvendee of a part of the land agreed to be conveyed cannot compel specific performance by the original vendor except upon payment of the whole amount due from the original vendee for the entire tract, as all the land would stand as security for the entire amount due the vendor.

[Ed. Note.—For other cases, see Specific Performance, Cent. Dig. § 289; Dec. Dig. § 97.*]

2. Specific Performance (§ 41*)—Contract Enforcible—Part Performance of Oral Contract.—Equity will compel the specific performance of a parol contract to sell land where it is certain and definite, and there has been such part performance thereunder that neither party can be restored to his former position.

[Ed. Note.—For other cases, see Specific Performance, Cent. Dig. §§ 120-122; Dec. Dig. § 41.*]

3. Specific Performance (§ 47*)—Contracts Enforcible—Part Performance—Improvements and Expenditures—Sufficiency.—Where

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.